

**HOUSE OF REPRESENTATIVES
LABOR COMMITTEE
June 23, 2010**

Summary of Testimony of Scott Smith

Background:

Member, Clark Hill PLC, municipal lawyer for 30 years

Current municipal clients include: Allegan, Grand Haven, Grand Rapids, Greenville, Mount Pleasant, Otsego, Plainwell, Portland, South Haven, Sparta and Wyoming.

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Testimony:

Emphasized 5 issues:

1. The Urban Cooperation Act needs a provisions to supersede local charter and ordinance limitations.

Some cities have quirky charter provisions that, for example, might be interpreted to require that they operate their own police department, fire department, tax assessment office or other municipal service that limit the funding available for consolidated operations with other municipalities, etc.

2. The Urban Cooperation Act should provide stand alone authority for the joint exercise of powers.

Section 3 of the Urban Cooperation Act currently requires that in case of conflicts with other statutes, the other statutes control. It should be replaced with a provision indicating the Urban Cooperation Act provides authority in addition to other statutes so it will stand on its own.

3. It should be clear that funding a joint endeavor under the Urban Cooperation Act, does not constitute revenue sharing under section 5a of the Urban Cooperation Act.

The Urban Cooperation Act currently allows for revenue sharing agreements. This provision was added to allow municipalities to have annexation agreements that provided for revenue sharing. However, like 1984 PA 425 which allows for the conditional transfer of property from one jurisdiction to another, the revenues sharing provision of the Urban Cooperation Act provides for a possible referendum. While the right of referendum may make sense in a situation where municipal boundaries are being adjusted, we think it could hamper collaboration and consolidation of services.

4. Collective bargaining should not prevent, impede or delay decisions for cooperation and consolidation, though collective bargaining with affected bargaining units should be a given after the cooperation or consolidation agreement is made.

Some unions have insisted on collective bargaining over whether or not consolidation can occur, with whom consolidation can occur, the terms of the consolidation, the consolidation process, etc. There is a need to collectively bargain the terms and conditions of employment in the consolidated operation. But bargaining over whether or not the consolidation can even be considered creates an impediment that will hamper most consolidation efforts.

5. The current versions of SB 1085 and 1086 could have the unintended consequences of reactivating expired collective bargaining agreements and of indefinitely having multiple collective bargaining agreements covering the employees doing the same jobs. It would be better if the MERC successorship process was allowed to work.

Under the currently proposed SB 1085 and 1086, if, at the time of consolidation, some collective bargaining agreements had expired, the consolidation would reactivate them. Furthermore, if there were a consolidation under SB 1085/1086, existing and expired collective bargaining agreements would remain in place "until a new labor agreement is in place." If there were a consolidation involving multiple bargaining units, each existing or expired collective bargaining agreement would remain in effect until that bargaining unit might otherwise agree. This is a special challenge for employees not covered by Act 312.

A better way would be to allow MERC successorship rules to apply to the situation and to have the resulting collective bargaining address the issues of wages, benefits and conditions of employment.